

ASSEMBLY BILL

No. 1344

Introduced by Assembly Member Jones

February 27, 2015

An act to amend Section 53094 of, and to repeal and add Section 53097.3 of, the Government Code, relating to zoning ordinances.

LEGISLATIVE COUNSEL'S DIGEST

AB 1344, as introduced, Jones. County office of education: charter schools.

(1) Existing law authorizes the governing board of a school district, by a $\frac{2}{3}$ vote of its members, to render a city or county zoning ordinance inapplicable to a proposed use of school district property, except when the proposed use is for nonclassroom facilities.

This bill would extend this authorization to the governing board of a county office of education.

(2) Existing law prohibits a school district from rendering a city or county ordinance inapplicable to a charter school facility, unless the charter school facility is physically located within the geographic jurisdiction of the school district.

This bill would also prohibit a county office of education from rendering a city or county ordinance inapplicable to a charter school facility, unless the charter school is physically located within the geographic jurisdiction of the county office of education. The bill would authorize, when a charter school facility is physically located within the geographic jurisdiction of a school district, a charter school to make a written request for this school district to render a city or county zoning ordinance inapplicable to a proposed use of the facility by the charter school, as specified. The bill would authorize the school district to

require specified documentation and payment of a reasonable fee along with this request. The bill would require the school district to notify the city or county concerned that the school district has taken this action. The bill would authorize the charter school to request a county office of education to provide the notice if the school district does not within a specified time period. The bill would also authorize the charter school, if the county office of education does not provide the notice within a specified time period, to file an appeal with the State Board of Education, which would be required to notify the city or county concerned of the inapplicability of the city or county ordinance to the charter school facility. By increasing the duties of local officials, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 53094 of the Government Code is
2 amended to read:
3 53094. (a) Notwithstanding any other provision of this article,
4 this article does not require a school district *or county office of*
5 *education* to comply with the zoning ordinances of a county or
6 city unless ~~the both of the following have occurred:~~
7 (1) The zoning ordinance makes provision for the location of
8 public schools ~~and unless the schools.~~
9 (2) The city or county has adopted a general plan.
10 (b) Notwithstanding subdivision (a), the governing board of a
11 school ~~district, district or county office of education~~, that has
12 complied with the requirements of Section 65352.2 of this code
13 and Section 21151.2 of the Public Resources Code, by a vote of
14 two-thirds of its members, may render a city or county zoning
15 ordinance inapplicable to a proposed use of property by the school
16 ~~district, district or county office of education~~. The governing board

1 of the school district *or county office of education* may not take
2 this action when the proposed use of the property by the school
3 district *or county office of education* is for nonclassroom facilities,
4 including, but not limited to, warehouses, administrative buildings,
5 and automotive storage and repair buildings.

6 (c) The governing board of the school district *or county office*
7 *of education* shall, within 10 days, notify the city or county
8 concerned of any action taken pursuant to subdivision (b). If the
9 governing board has taken ~~such an~~ *this* action, the city or county
10 may commence an action in the superior court of the county whose
11 zoning ordinance is involved or in which is situated the city whose
12 zoning ordinance is involved, seeking a review of the action of the
13 governing board of the school district *or county office of education*
14 to determine whether it was arbitrary and capricious. The city or
15 county shall cause a copy of the complaint to be served on the
16 board. If the court determines that the action was arbitrary and
17 capricious, it shall declare it to be of no force and effect, and the
18 zoning ordinance in question shall be applicable to the use of the
19 property by the school district *or county office of education*.

20 SEC. 2. Section 53097.3 of the Government Code is repealed.

21 ~~53097.3. Notwithstanding any other provision of this article,~~
22 ~~no school district may render a city or county ordinance~~
23 ~~inapplicable to a charter school facility pursuant to this article,~~
24 ~~unless the facility is physically located within the geographical~~
25 ~~jurisdiction of that school district.~~

26 SEC. 3. Section 53097.3 is added to the Government Code, to
27 read:

28 53097.3. (a) Notwithstanding any other provision of this
29 article, a school district or county office of education shall not
30 render a city or county ordinance inapplicable to a charter school
31 facility pursuant to this article, unless the facility is physically
32 located within the geographical jurisdiction of that school district
33 or county office of education.

34 (b) When a charter school facility is physically located within
35 the geographic jurisdiction of a school district, the charter school
36 may make a written request for this school district to render a city
37 or county zoning ordinance inapplicable to a proposed use of the
38 facility by the charter school only to the same extent to which the
39 school district may render the zoning ordinance inapplicable to a
40 use of property by the school district pursuant to Section 53094.

1 Along with the written request, a school district may require the
2 charter school to provide the school district with any or all of the
3 following:

4 (1) The address of the charter school facility or documentary
5 evidence that the charter school facility is located within the
6 geographic jurisdiction of the school district.

7 (2) A deed, purchase agreement, lease, or similar contractual
8 document to establish that the charter school has control over the
9 charter school facility.

10 (3) Payment of a reasonable fee not to exceed five hundred
11 dollars (\$500) to process the written request.

12 (c) If the requirements of subdivision (b) are met, the school
13 district shall, within 60 days of receiving the written request and,
14 if required, other items described in subdivision (b), notify the city
15 or county concerned in writing that the school district has rendered
16 a city or county ordinance inapplicable to a charter school facility
17 that is physically located within the geographical jurisdiction of
18 the school district.

19 (d) If the school district does not provide the notice of
20 inapplicability within 60 days pursuant to subdivision (c) and the
21 charter school facility is physically located within the geographic
22 jurisdiction of a county office of education, the charter school may
23 request this county office of education to provide the notice of
24 inapplicability to the city or county concerned. If, after receiving
25 this request, the county office of education does not provide the
26 notice of inapplicability within 30 days of the request, the charter
27 school may file an appeal with the State Board of Education.
28 Notwithstanding any other provision of law, upon receipt of the
29 appeal, the State Board of Education shall notify the city or county
30 concerned of the inapplicability of the city or county ordinance to
31 the charter school facility.

32 (e) A charter school that makes a written request to render a
33 city or county zoning ordinance inapplicable to the proposed use
34 of a facility shall not be required to make any warranties, except
35 that the facility will be used for classrooms and is in the jurisdiction
36 of the school district or county office of education or provide
37 indemnification, bonds, insurance coverage, or any other type of
38 financial assurance as a condition for rendering an ordinance
39 inapplicable to a charter school facility.

1 SEC. 4. If the Commission on State Mandates determines that
2 this act contains costs mandated by the state, reimbursement to
3 local agencies and school districts for those costs shall be made
4 pursuant to Part 7 (commencing with Section 17500) of Division
5 4 of Title 2 of the Government Code.

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